

**Chapter 82: Discharges to the Municipal Storm Drain System**  
**[Adopted May 9, 2008][Effective August 5, 2008]**

**§ 82.1. Purpose.**

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Westford's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- C. The objectives of this bylaw are:
  - 1. to prevent pollutants from entering the Town of Westford's municipal separate storm sewer system;
  - 2. to prohibit illicit connections and unauthorized discharges to the municipal separate storm sewer system;
  - 3. to require the removal of all such illicit connections;
  - 4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
  - 5. to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

**§ 82.2. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this bylaw. Terms not defined herein shall be construed according to their customary and usual meaning.

**Authorized Enforcement Agency** shall mean the Board of Health, its employees or agents designated to enforce this bylaw.

**Clean Water Act** shall mean the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**Discharge of Pollutants** shall mean the addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**Facility or Operation** shall mean any business, establishment, or performance of work that uses, generates, or handles material that is considered a Pollutant.

**Groundwater** shall mean water below the land surface in a saturated zone, including perched groundwater.

**Illicit Connection** shall mean a surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

**Illicit Discharge** shall mean a direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 82.8.

**Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System or Municipal Storm Sewer System** shall mean a conveyance or system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, municipal street, catch basins, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Westford.

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit** shall mean a permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

**Nonpoint Source** shall mean any source from which pollution is discharged which is not identified as a point source, including, but not limited to urban, agricultural, or silvicultural runoff.

**Non-Stormwater Discharge** shall mean a discharge to the municipal storm drain system not composed entirely of stormwater.

**Person** shall mean an individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**Point Source** means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete, fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

**Pollutant** shall mean any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- a. paints, varnishes, and solvents;

- b. oil and other automotive fluids;
- c. non-hazardous liquid and solid wastes and yard wastes;
- d. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- e. pesticides, herbicides, and fertilizers;
- f. hazardous materials and wastes;
- g. sewage, fecal coliform and pathogens;
- h. dissolved and particulate metals;
- i. animal wastes;
- j. rock, sand, salt, soils with the exception of winter salting and sanding in quantities that will not clog or otherwise impair the performance of stormwater conveyances;
- k. construction wastes and residues; and
- l. noxious or offensive matter of any kind.

**Process Wastewater** shall mean water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**Recharge** shall mean the process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**Riparian habitat** shall mean the aquatic and terrestrial environment where a plant or animal naturally or normally lives and grows adjacent to streams, lakes, or other waterways.

**Stormwater** shall mean storm water runoff, snow melt runoff, and surface water runoff and drainage.

**Stormwater Best Management Practice** shall mean a structural or nonstructural technique for managing stormwater to prevent or reduce non-point source pollutants from entering surface waters or ground waters. A structural stormwater best management practice includes a basin, discharge outlet, swale, rain garden, biofilter or other stormwater treatment practice or measure either alone or in combination including without limitation any discharge pipe, overflow pipe, conduit, weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater. Nonstructural stormwater best management practices include source control and pollution prevention measures.

**Surface Water Discharge Permit** shall mean a permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

**Toxic or Hazardous Material or Waste** shall mean any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the

environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under Massachusetts General Laws chapters 21C and 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**Watercourse** shall mean a natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**Waters of the Commonwealth** shall mean all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, wetlands, and groundwater.

**Wastewater** shall mean any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **§ 82.3. Applicability.**

- A. This bylaw shall apply to flows entering the municipal separate storm sewer system.
- B. This bylaw is not intended to interfere with, abrogate, or annul any other bylaw, rule or regulation, statute, or other provision of law. The requirements of this bylaw should be considered minimum requirements, and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

### **§ 82.4. Authority.**

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

### **§ 82.5. Responsibility For Administration.**

The Board of Health shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board of Health may be delegated in writing by the Board of Health to employees or agents of the Board of Health.

### **§ 82.6. Regulations.**

The Board of Health may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Board of Health to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

**§ 82.7. Prohibited Activities.**

- A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system, into a watercourse, or into the waters of the Commonwealth.
- B. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Board of Health.

**§ 82.8. Exemptions.**

- A. Discharge or flow resulting from fire fighting activities.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
  - 1. Waterline flushing;
  - 2. Flow from potable water sources;
  - 3. Springs;
  - 4. Natural flow from riparian habitats and wetlands;
  - 5. Diverted stream flow;
  - 6. Rising groundwater;
  - 7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
  - 8. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
  - 9. Discharge from landscape irrigation or lawn watering;
  - 10. Water from individual residential vehicle washing;
  - 11. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
  - 12. Discharge from street sweeping;
  - 13. Dye testing, provided verbal notification is given to the Board of Health prior to the time of the test;
  - 14. Non-stormwater discharge permitted under an National Pollutant Discharge Elimination System permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

15. Discharge for which advanced written approval is received from the Board of Health as necessary to protect public health, safety, welfare or the environment.

**§ 82.9. Emergency Suspension of Storm Drainage System Access.**

The Board of Health may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Board of Health may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**§ 82.10. Notification of Spills.**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Board of Health and the Engineering Department. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**§ 82.11. Enforcement.**

- A. The Board of Health or an authorized agent of the Board of Health shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board of Health may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The Board of Health or an authorized agent of the Board of Health may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
  - 1. elimination of illicit connections or discharges to the municipal separate storm sewer system;
  - 2. performance of monitoring, analyses, and reporting;

3. that unlawful discharges, practices, or operations shall cease and desist; and
  4. remediation of contamination in connection therewith.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator fail to abate or perform remediation within the specified deadline, the Town of Westford may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Westford, including administrative costs. The violator may file a written protest objecting to the amount or basis of costs with the Board of Health within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board of Health affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the violator and shall constitute a lien on the violator's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in Massachusetts General Laws chapter 59, section 57, after the thirty-first day at which the costs first become due.
- F. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00, excluding the cost of damages. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Westford may elect to utilize the non-criminal disposition procedure set forth in Massachusetts General Laws chapter 40, section 21D, and the Town of Westford General Bylaws Chapter 1.2 A in which case the Board of Health or its authorized agent shall be the enforcing person. The penalty for the 1<sup>st</sup> violation shall be \$100.00. The penalty for the 2<sup>nd</sup> violation shall be \$200.00. The penalty for the 3<sup>rd</sup> and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- H. Entry to Perform Duties Under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Health, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board of Health deems reasonably necessary.
- I. Appeals. The decisions or orders of the Board of Health shall be final. Further relief shall be to a court of competent jurisdiction.

- J. Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

**§ 82.12. Severability.**

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

**§ 82.13. Transitional Provisions.**

Residential property owners shall have 180 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.